

Message Text

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ACTION AID-59

INFO OCT-01 NEA-10 ISO-00 AF-10 PM-07 NSC-07 SP-03 SS-20

RSC-01 EB-11 IGA-02 DRC-01 L-03 CIAE-00 INR-10

NSAE-00 DODE-00 H-03 /148 W
----- 020338

R 031053Z MAY 74

FM AMEMBASSY RABAT

TO SECSTATE WASHDC 1779

C O N F I D E N T I A L RABAT 1889

E.O. 11652: GDS

TAGS: MO PINT MASS USIAD

SUBJ: FAA SECTION 32 - POLITICAL PRISONERS

REF: STATE 68545

1. MOROCCAN CONSTITUTION OF 1972, LIKE ITS PREDECESSORS, REAFFIRMS RULE OF LAW AND EQUALITY OF ALL MOROCCANS BEFORE THE LAW. IT PROVIDES FOR FREEDOM OF SPEECH, PRESS, ASSEMBLY, ASSOCIATION, AND MEMBERSHIP IN LABOR AND POLITICAL ORGANIZATIONS, AND STIPULATES THAT NO ONE CAN BE ARRESTED, DETAINED OR PUNISHED EXCEPT IN CASES AND MANNER PROVIDED FOR BY LAW. PENAL CODE IN TURN DEFINES IN DETAIL GUARANTEES ACCORDED INDIVIDUAL CITIZENS, INCLUDING PRESUMPTION OF INNOCENCE, RIGHT TO COUNSEL, DUE PROCESS OF LAW FOR ARREST, TRIAL AND PUNISHMENT, AND PROTECTION AGAINST UNLAWFUL SEARCH.

2. ACCORDING PENAL CODE, PREVENTIVE DETENTION CAN ONLY BE AUTHORIZED BY AN EXAMINING MAGISTRATE AND UNDER CAREFULLY OUTLINED CONDITIONS. WHEN PUNISHMENT FOR CHARGE INVOLVED IS LESS THAN TWO YEARS' IMPRISONMENT, PREVENTIVE DETENTION CANNOT IN PRINCIPLE EXCEED TEN DAYS. WHEN PUNISHMENT FOR CHARGE WOULD BE OVER TWO YEARS, PREVENTIVE DETENTION MUST BE LIMITED TO TWO-MONTH PERIOD WITH EXTENSIONS OF TWO MONTHS POSSIBLE ONLY AFTER DECISION BY EXAMINING MAGISTRATE ACTING ON REQUISITION OF PUBLIC PROSECUTOR. AT ALL STAGES LEGAL PROCEDURE, ACCUSED PERSON
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CAN ASK FOR PROVISIONAL RELEASE AND EXAMINING MAGISTRATE MUST

GIVE DECISION WITHIN FIVE DAYS. IF THIS NOT DONE, ACCUSED PERSON CAN APPEAL TO OFFICE OF DIRECTOR OF PUBLIC PROSECUTIONS (CHAMBRE D'ACCUSATION) WHICH HAS FIFTEEN DAYS TO GIVE DECISION.

3. WHILE THESE GUARANTEES AND SAFEGUARDS ARE QUITE EXPLICIT, THEY HAVE NOT ALWAYS BEEN OBSERVED, PARTICULARLY DURING PAST THREE YEARS WHEN MOROCCO HAS EXPERIENCED THREE ATTEMPTS AT ARMED OVERTHROW OF REGIME. GOVERNMENT HAS HAD MAJOR TASK IN COPING WITH ARMED SUBVERSION MOUNTED BY PEOPLE MOTIVATED AT LEAST IN PART BY POLITICAL CONSIDERATIONS OR IDEOLOGIES. AS DIRECT RESULT, PERSONS HAVE BEEN IMPRISONED AND TRIALS HAVE BEEN HELD WHICH HAVE RESULTED IN EXECUTIONS AND PRISON SENTENCES FOR WHAT COULD PERHAPS BE TERMED POLITICAL OFFENSES. PERSONS HAVE ALSO BEEN IMPRISONED FOR INDETERMINATE PERIODS ON RATHER VAGUE CHARGES ARISING ESSENTIALLY FROM THEIR MEMBERSHIP IN POLITICAL ORGANIZATIONS, PARTICULARLY THE UNION OF NATIONAL POPULAR FORCES, WHICH WERE, OR WERE THOUGHT TO BE, CONNECTED WITH ATTEMPTS AT ARMED SUBVERSION. IN STRICT SENSE OF WORD, THEN, MOROCCAN CITIZENS HAVE BEEN IMPRISONED HERE FOR POLITICAL PURPOSES.

4. THESE QTE POLITICAL PURPOSES UNQTE, HOWEVER, RELATE TO SUPPRESSION WELL-ESTABLISHED THREATS OR ATTEMPTS TO OVERTHROW REGIME BY FORCE RATHER THAN TO SUPPRESSION EXERCISE OF LEGITIMATE, PEACEFUL POLITICAL ACTIVITIES, SUCH AS PRINTING OF PARTY NEWSPAPERS, MAKING OF SPEECHES, ETC., WHICH PERMITTED HERE WITH DEGREE OF FREEDOM UNUSUAL IN THIRD WORLD. IN CIRCUMSTANCES, DO NOT BELIEVE IT WOULD BE APPROPRIATE TO MAKE REPRESENTATIONS TO GOM ON SUBJECT OR TO DENY ECONOMIC OR MILITARY ASSISTANCE DUE TO POLITICAL PRISONER ISSUE.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: POLITICAL REPRESSION, PENAL SYSTEM, FOREIGN ASSISTANCE, POLITICAL PRISONERS
Control Number: n/a
Copy: SINGLE
Draft Date: 03 MAY 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: garlanwa
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974RABAT01889
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D740106-0923
From: RABAT
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740576/aaaacpzg.tel
Line Count: 91
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION AID
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: STATE 68545
Review Action: RELEASED, APPROVED
Review Authority: garlanwa
Review Comment: n/a
Review Content Flags:
Review Date: 22 AUG 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <22 AUG 2002 by izenbei0>; APPROVED <13 JAN 2003 by garlanwa>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: FAA SECTION 32 - POLITICAL PRISONERS
TAGS: PINT, MASS, EAID, MO
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005